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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,979	04/18/2006	Georges Driesen	02894-0727US1	2159
26161	7590	04/07/2010	EXAMINER	
FISH & RICHARDSON PC			DANIEL, JAMAL D	
P.O. BOX 1022				
MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER
			3723	
			NOTIFICATION DATE	DELIVERY MODE
			04/07/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,979	DRIESSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JAMAL DANIEL	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 January 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4,6,7,9-13 and 15-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 22 is/are allowed.  
 6) Claim(s) 1-4,6,7,9-13,15-18,20 and 21 is/are rejected.  
 7) Claim(s) 19 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 4 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

3. In re claim 4, Applicant claims a “narrower” face side. Narrower than what? Please clarify.

4. In re claims 12 and 16, Applicant claims a projection of between 10% and 40% and about 25%. Between 10% and 40% and about 25% of what? Please clarify.

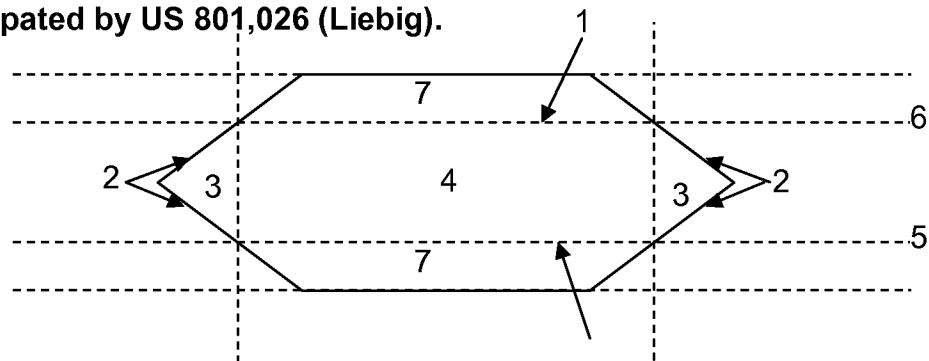
### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-3, 7, 9, 10, 13, 15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US 801,026 (Liebig).**



**Figure 1** 1

7. In re claims 1-3, 7, 9, 10, 13, 15, 17 and 18, with reference to figure 1 above, Liebig discloses a bristle cluster stuffing tool ram comprising broad longitudinal sides (1), face sides (2), and a pressing surface including: end face regions (3) and a central face region (4) being wider than the end face regions as measured between the broad longitudinal sides of the ram, a first broad longitudinal side disposed along a first line (5) extending between ends of the face sides of the ram, and a second broad longitudinal side of the ram extends outward relative a second line (6) extending between ends of the face sides of the ram such that the central face region includes a enlarged projecting areas (7) disposed on both broad longitudinal sides of the ram.

8. Regarding the limitations of claim 10, the Examiner interprets the widening starting from the leftmost point and moving rightward on the face of the ram as a wedge shaped widening, thus meeting the limitations of the claim. Note, this limitation can be read broadly because Applicant has not specified the axis or direction of widening.

9. Regarding the specific limitation of "a toothbrush bristle cluster stuffing tool" in claim 13, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. **Claims 4 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Liebig.**

13. In re claims 4 and 6, Liebig discloses a trapezoidal projection, but it would have been an obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to use a rectangular projection since both projections effectively serve the same purpose of adding thickness to the ram which increases said ram's strength and lessens the chance of breakage. A rectangular projection would inherently include a stepped transition.

14. **Claims 11, 12, 16, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebig.**

15. In re claims 11, 12, 16, 20 and 21, Liebig discloses the claimed invention except for explicit angles of widening and percentages of projection with respect to the width of

the holding element and end regions. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the optimal angle of widening and size of projection, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Allowable Subject Matter***

16. **Claim 22 is allowed.**

17. The following is a statement of reasons for the indication of allowable subject matter: The specific limitations of “pressing the holding elements into corresponding boreholes inclined relative to a longitudinal axis of the ram” are not anticipated or made obvious by the prior art of record in the examiner’s opinion. For example, Fisher et al discloses a ram pressing the holding element into corresponding boreholes which are inclined relative to *the brush head* but said boreholes are not inclined relative to *the ram*.

18. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

19. The Examiner has withdrawn the objection to the drawings in light of the cancellation of claim 8

20. The Examiner has withdrawn the objection to claim 11 in view of the amendment to claim 11.

21. The Examiner has withdrawn the 112 rejection of claims 1 and 7 in view of the amendments to claims 1 and 7.

22. Applicants arguments with respect to the 102/103 rejection of claims 1-4, 6-13, 15-18, 20 and 21 are not persuasive.

23. Applicant argues that the ram of Liebig would not work without grooves 15, 16. The argument is not persuasive because the ram of Liebig meets the structural limitations as disclosed in the rejection section. Whether or not the ram could be used in a different machine or by hand is immaterial.

24. Applicant's argument with respect to the rejection of claims 19 and 22 is persuasive. The rejection has been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMAL DANIEL whose telephone number is (571)270-5706. The examiner can normally be reached on Monday - Friday 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571)272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMAL DANIEL/  
Examiner, Art Unit 3723

/Joseph J. Hail, III/  
Supervisory Patent Examiner, Art Unit 3723